

ASSEMBLY BILL

No. 137

Introduced by Assembly Member Firebaugh

January 11, 1999

An act to add Section 17214 to the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 137, as introduced, Firebaugh. School facilities: certification from the Department of Toxic Substances Control.

(1) Existing law prohibits the governing board of a school district from approving a project involving the acquisition of a schoolsite by the school district unless specified actions are taken with regard to potential contamination of the site, including a determination by the lead agency, as defined, that the property purchased or to be built upon is not the site of a current or former hazardous waste disposal site or solid waste disposal site, or a hazardous substance release site.

This bill would require the governing board of each urban district, as defined, to obtain a certification from the Department of Toxic Substances Control on or before January 1, 2001, and at least once every 5 years thereafter, stating that each schoolsite of the district has been analyzed and surveyed for contamination from any release of a hazardous substance or hazardous waste, and would be based on an independent audit conducted at the schoolsite. The bill would require a schoolsite determined to contain a dangerous level of a hazardous substance, hazardous waste, or both, to undergo an

annual certification process until the schoolsite is determined to be free of these materials. The bill would require schoolsites determined to contain dangerous levels of these materials to develop a remediation plan, and would provide that schoolsites that do not develop remediation plans in these circumstances are ineligible to receive apportionments from the State School Fund for the units of average daily attendance attributable to that schoolsite until a remediation plan is implemented.

The bill would create a state-mandated local program by imposing new duties upon school districts.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares
2 all of the following:

3 (1) As the number of children attending school in
4 urban communities increases across California, an
5 increasing number of children may be exposed to
6 dangerous levels of toxic materials at their schoolsites.

7 (2) Schools that were constructed prior to the
8 implementation of strict restrictions regarding the use of
9 lead-based paint and asbestos may still contain these
10 dangerous materials at the schoolsite.

11 (3) Children who attend schools in urban areas are
12 susceptible to exposure to dangerous levels of potentially



1 toxic materials by virtue of attending schools in areas
2 where land use policies permit dangerous uses to be sited
3 near sensitive uses.

4 (4) Schools are required to undergo a rigorous
5 environmental assessment when they are first
6 constructed and prior to being opened. However, there
7 exists no mechanism in state law to ensure that schoolsites
8 remain free from dangerous levels of contaminants.

9 (b) It is, therefore, the intent of the Legislature to
10 create a mechanism in state law to ensure that schools
11 remain free from dangerous levels of toxic materials.

12 SEC. 2. Section 17214 is added to the Education Code,
13 to read:

14 17214. (a) (1) The governing board of each urban
15 district shall obtain a certification from the Department
16 of Toxic Substances Control on or before January 1, 2001,
17 and at least once every five years thereafter, stating that
18 each schoolsite of the school district has been analyzed
19 and surveyed for contamination from any release of a
20 hazardous substance or hazardous waste.

21 (2) The certification required by paragraph (1) shall
22 be issued by the Department of Toxic Substances Control
23 based on an independent audit conducted at the
24 schoolsite. The audit shall be conducted by a licensed
25 environmental consultant selected by the school district
26 with jurisdiction over the schoolsite. The findings of the
27 audit, including the raw data collected, shall be made
28 public to interested persons and organizations.

29 (b) If the Department of Toxic Substances Control
30 determines that a schoolsite contains dangerous levels of
31 a hazardous substance, hazardous waste, or both, then the
32 certification shall be repeated yearly until the schoolsite
33 is determined to be free of these materials. Once the
34 schoolsite is determined to be free of dangerous levels of
35 these materials, the schoolsite shall be certified for the full
36 five-year period.

37 (c) Any schoolsite that is determined by the
38 Department of Toxic Substances Control to be
39 contaminated by a dangerous level of a hazardous
40 substance, hazardous waste, or both, shall develop and

1 implement a remediation plan, in collaboration with the
2 school district with jurisdiction over the schoolsite, to
3 make the schoolsite safe. The remediation plan shall be
4 submitted to and approved by the Department of Toxic
5 Substances Control no later than 30 days after the
6 dangerous level of the hazardous substance, hazardous
7 waste, or both, is identified at the schoolsite.

8 (d) Notwithstanding any other provision of law, any
9 schoolsite, as well as the school district with jurisdiction
10 over that schoolsite, that fails to take reasonable steps to
11 implement a remediation plan within 60 days after
12 having failed to achieve certification by the Department
13 of Toxic Substances Control because of the existence of a
14 dangerous level of a hazardous substance, hazardous
15 waste, or both, is not eligible to receive an apportionment
16 from the State School Fund for the units of average daily
17 attendance attributable to that schoolsite unless and until
18 a remediation plan is implemented to the satisfaction of
19 the Department of Toxic Substances Control.

20 (e) For purposes of this section, the following
21 definitions shall apply:

22 (1) “Hazardous substance” and “hazardous waste”
23 have the same meaning as defined in subdivision (d) of
24 Section 17213.

25 (2) “Urban district” has the same meaning as defined
26 in subdivision (e) of Section 16702.

27 SEC. 3. Notwithstanding Section 17610 of the
28 Government Code, if the Commission on State Mandates
29 determines that this act contains costs mandated by the
30 state, reimbursement to local agencies and school
31 districts for those costs shall be made pursuant to Part 7
32 (commencing with Section 17500) of Division 4 of Title
33 2 of the Government Code. If the statewide cost of the
34 claim for reimbursement does not exceed one million
35 dollars (\$1,000,000), reimbursement shall be made from
36 the State Mandates Claims Fund.

37 Notwithstanding Section 17580 of the Government
38 Code, unless otherwise specified, the provisions of this act

1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

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